

SENATE BILL 635

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 2, to provide for a moratorium on the death penalty.

WHEREAS, the General Assembly of the State of Tennessee recognizes the value of each person's life and the need to protect that life whenever possible; and

WHEREAS, the State should exercise utmost care to protect its residents' lives from homicides, preventable illnesses, accidents, and unjust taking by the state; and

WHEREAS, significant numbers of Tennesseans, including members of this Body, have grave reservations about the fairness in the way that the death penalty is imposed in our State and elsewhere, as well as concern about the cost to taxpayers in carrying out the death penalty; and

WHEREAS, many Tennesseans maintain that inadequate representation, economic status, race, judicial error, overzealous prosecution, or other factors may deny some defendants the right to adequate representation or to a fair trial in capital cases; and

WHEREAS, new methods and technologies have been developed for determining more precisely the guilt or innocence of accused persons in capital crimes;

WHEREAS, the execution of an innocent person by the State of Tennessee would be an irreversible injustice; and

WHEREAS, it is consistent with Tennessee's history, philosophy, and values to ensure a system of justice which is fair, impartial, and eschews vengeance; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The House and Senate Judiciary committees are hereby directed to study defendants' access to justice and other implications of death penalty trials in the State of Tennessee.

SECTION 2. The House and Senate Judiciary committees shall study, receive testimony, deliberate upon, and make recommendations on all aspects of capital punishment trials in the state. The committees shall examine and consider, but not be limited to, the following:

- (1) The adequacy of counsel in all stages of capital cases, and the sufficiency of guidelines for appointment and performance of such counsel;
- (2) The adequacy of investigative support afforded the accused in capital cases;
- (3) The process for judicial review of meritorious claims in state post-conviction and federal habeas corpus proceedings;
- (4) Any disproportionate racial impact upon any aspect of capital case proceedings;
- (5) Whether mentally retarded persons should be executed, and what criteria should be used in judging the level of retardation involved;
- (6) Whether persons who are minors when the crime is committed should be executed.
- (7) Prosecutorial misconduct or judicial error as a factor in the imposition of the death penalty; and
- (8) The presence of innocent persons on death row in Tennessee.

SECTION 3. The committees shall report their findings and recommendations to the governor and the general assembly on or before January 15, 2008.

SECTION 4. Tennessee Code Annotated, Section 39-13-204, is amended by adding a new subsection thereto, as follows:

(l)

(1) No sentence of death shall be carried out from the effective date of this act through April 15, 2008.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, all trials and sentencing hearings for the offense of first degree murder shall continue. Persons may be sentenced to death during the moratorium on the death penalty provided by this

act, provided that no sentence of death shall be carried out unless it conforms with subdivision (1).

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.